

**COPY**

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

THE BURLINGTON NORTHERN and SANTA FE  
RAILWAY COMPANY, )

Petitioner, )

No. T 03 - 0038

v. )

TOMPKINS TOWNSHIP, WARREN COUNTY, )  
ILLINOIS, HALE TOWNSHIP, WARREN COUNTY, )  
ILLINOIS; and DEPARTMENT OF TRANSPOR- )  
TATION OF THE STATE OF ILLINOIS, )

Respondent. )

Petition for an order from the Illinois Commerce )  
Commission authorizing the permanent closure )  
and removal of the at grade crossing located at )  
intersection of the tracks of The Burlington )  
Northern and Santa Fe Railway Company )  
("BNSF") and Township Road 50<sup>th</sup> Street in )  
Tompkins Township, Warren County, Illinois, )  
Milepost 181.28 DOT No. 079228W; the permanent )  
closure and removal of the at grade crossing )  
located at the intersection of BNSF's tracks and )  
Tompkins Township Road, 180<sup>th</sup> Avenue, )  
Milepost 181.14, DOT No. 079227P; the )  
construction of a connecting road located south )  
of and parallel to BNSF's track which would serve )  
to connect Tompkins Township Road, 50<sup>th</sup> Street )  
and Tompkins Township Road 180<sup>th</sup> Avenue; )  
and, the construction of a new at grade crossing )  
carrying Tompkins Township Road 50<sup>th</sup> Street )  
over the trackage of BNSF, with the cost of such )  
project to be borne by the parties in accordance )  
with law and that a substantial portion of the cost )  
be borne by the Grade Crossing Protection Fund. )

RECEIVED  
MAY 9 2003

Illinois Commerce Commission  
RAIL SAFETY SECTION

PETITIONER'S MOTION FOR LEAVE TO FILE ITS AMENDED PETITION

Now comes petitioner, The Burlington Northern and Santa Fe Railway Company  
("BNSF") by its attorneys, Kenneth J. Wysoglad & Associates and moves the Illinois

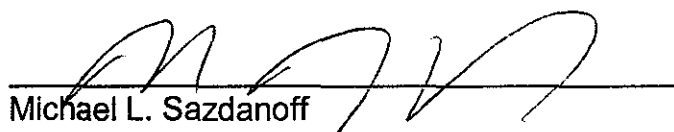
**DOCKETED**

Commerce Commission for an order granting BNSF leave to file its amended petition, instanter. In support thereof, BNSF states as follows:

1. On or about April 28, 2003 BNSF filed its petition in the above entitled cause. In its petition, BNSF seeks an order from the Illinois Commerce Commission authorizing the closure of two at grade crossings, the construction of a new at grade crossing and construction of a connecting roadway.
2. When BNSF filed its petition it believe the roadways and at grade crossings which are the subject of BNSF's petition were located in Hale Township, Warren County, Illinois and under the jurisdiction of Hale Township.
3. The County Engineer for Warren County, Illinois has now advised that the at issue roadways and at grade crossings are in fact within Tompkins Township and under the jurisdiction of Tompkins, Township, Warren County, Illinois.
4. BNSF requests leave from the Illinois Commerce Commission to file its amended complaint instanter, a copy of which is attached hereto, to reflect the addition of Tompkins Township, Warren County, Illinois as an additional party respondent and reflecting Tompkins Township, Warren County, Illinois as the road authority with jurisdiction over the roadways in the area of the subject crossings.

Wherefore, petitioner, The Burlington Northern and Santa Fe Railway Company prays that the Illinois Commerce Commission grant The Burlington Northern and Santa Fe Railway Company leave to file its amended petition instanter, a copy of which is attached hereto.

KENNETH J. WYSOGLAD & ASSOCIATES

  
Michael L. Sazdanoff

Michael L. Sazdanoff  
Kenneth J. Wysoglad & Associates  
Attorneys for Petitioner  
The Burlington Northern and Santa Fe Railway Company  
118 S. Clinton Street, Suite 700  
Chicago, Illinois 60661  
(312) 441-0333

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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**THE BURLINGTON NORTHERN and SANTA FE  
RAILWAY COMPANY,**

**Petitioner,**

**v.**

**TOMPKINS TOWNSHIP, WARREN COUNTY,  
ILLINOIS, HALE TOWNSHIP, WARREN COUNTY,  
ILLINOIS; and DEPARTMENT OF TRANSPOR-  
TATION OF THE STATE OF ILLINOIS,**

**Respondent.**

**No. T 03 - 0038**

**Petition for an order from the Illinois Commerce  
Commission authorizing the permanent closure  
and removal of the at grade crossing located at  
intersection of the tracks of The Burlington  
Northern and Santa Fe Railway Company  
("BNSF") and Township Road 50<sup>th</sup> Street in  
Tompkins Township, Warren County, Illinois,  
Milepost 181.28 DOT No. 079228W; the permanent  
closure and removal of the at grade crossing  
located at the intersection of BNSF's tracks and  
Tompkins Township Road, 180<sup>th</sup> Avenue,  
Milepost 181.14, DOT No. 079227P; the  
construction of a connecting road located south  
of and parallel to BNSF's track which would serve  
to connect Tompkins Township Road, 50<sup>th</sup> Street  
and Tompkins Township Road 180<sup>th</sup> Avenue;  
and, the construction of a new at grade crossing  
carrying Tompkins Township Road 50<sup>th</sup> Street  
over the trackage of BNSF, with the cost of such  
project to be borne by the parties in accordance  
with law and that a substantial portion of the cost  
be borne by the Grade Crossing Protection Fund.**

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**AMENDED PETITION**

Now comes petitioner, The Burlington Northern and Santa Fe Railway Company  
("BNSF"), by its attorneys, Kenneth J. Wysoglad & Associates and for its amended petition  
to the Illinois Commerce Commission states as follows:

**EXHIBIT**

1. BNSF is a Delaware corporation with its principal place of business in Ft. Worth, Texas and is authorized to transact business in the State of Illinois and transacts business as a common carrier by railroad in interstate and intrastate commerce.
2. Hale Township, Warren County, Illinois is a governmental entity established under the laws of the State of Illinois.
3. Tompkins Township, Warren County, Illinois is a governmental entity established under the laws of the State of Illinois.
4. BNSF operates certain trackage in a generally northwest to southeast direction through Hale and Tompkins Townships, Warren County, Illinois.
5. Warren County, Illinois in which Hale Township and Tompkins Township are located, has a population of approximately 19,200 individuals.
6. Tompkins Township Road, 50<sup>th</sup> Street located in Tompkins Township, Illinois is under the jurisdiction of Tompkins Township, Warren County, Illinois. Tompkins Township Road 50<sup>th</sup> Street extends in a generally north to south direction through Tompkins Township and intersects with the tracks of BNSF creating a public at grade crossing on less than a 90° angle at Milepost 181.28. DOT No. 079 228W. The aforesaid at grade crossing is currently equipped with two reflectorized crossbuck signs and carries an estimated average daily vehicular traffic of approximately 25 vehicles per day.
7. Tompkins Township Road 180<sup>th</sup> Avenue is a east/west roadway under the jurisdiction of Tompkins Township, Warren County, Illinois. Tompkins Township Road 180<sup>th</sup> Avenue intersects with the trackage of BNSF on less

than a 90° angle creating a public at grade crossing at milepost 181.14, DOT No. 079 227P. The aforesaid at grade crossing is equipped with two reflectorized crossbuck signs and carries an estimated average daily vehicular traffic of approximately 50 vehicles.

8. BNSF suggests that the public safety, convenience and necessity does not require the retention of the public at grade crossings located at Tompkins Township Road 50<sup>th</sup> Avenue, Milepost 181.28, DOT No. 079 228W and Tompkins Township Road 180<sup>th</sup> Avenue, Milepost 181.14, DOT No. 079 227P. Petitioner herein suggests that public safety would be enhanced if the aforesaid public at grade crossings were permanently closed and barricaded. Petitioner further suggests that to minimize any inconvenience that may be caused to the motor vehicle traveling public by the permanent closure of the aforesaid public at grade crossings, that a connecting road be constructed between Tompkins Township Road 50<sup>th</sup> Street and Tompkins Township Road 180<sup>th</sup> Avenue at a location south of and parallel to BNSF's track and right of way. Moreover, BNSF suggests that a new public at grade crossing be established approximately 170 feet east of the existing Tompkins Township Road 50<sup>th</sup> Street at grade crossing, the new crossing to be located at or near BNSF Milepost 181.25. BNSF recommends that the newly established at grade crossing be equipped with a concrete crossing surface to be installed at an estimate cost of \$51,200 and further equipped with automatic flashing light signals and gates and constant warning time circuitry be installed at an estimated cost of \$132,495.

9. As to the proposed connecting road, BNSF has caused to be acquired all property necessary for the construction of the proposed roadway, with land acquisition cost to be approximately \$35,000 and construction cost for the roadway currently estimated at \$79,800.
10. BNSF has conferred with Hale Township and Tompkins Township, Warren County, Illinois with respect to the above described project. It is petitioner's understanding that Tompkins Township and Hale Township, Warren County, Illinois concurs with the proposed improvements as set forth above.
11. The new proposed at grade crossing to be installed at or near Milepost 181.25 would be a needed thoroughfare in Tompkins Township, Warren County, Illinois with said roadway and crossing used by Statewide traffic.
12. The public safety, convenience and necessity requires that the Grade Crossing Protection Fund of the Motor Fuel Tax Law pay a substantial portion of the cost of any improvement that may be authorized by the Illinois Commerce Commission pursuant to this said petition. Petitioner would request that the Grade Crossing Protection Fund of the Motor Fuel Tax Law bear 85% of the project cost with petitioner bearing the remaining 15% of such cost.

Wherefore, petitioner prays that the Illinois Commerce Commission set the aforesaid matter for public hearing and enter an order authorizing the permanent closure of the public at grade crossings located at Tompkins Township Road 50<sup>th</sup> Street and the tracks of BNSF, Milepost 21.28, DOT No. 079 228W and Township Road 180<sup>th</sup> Avenue and the tracks of BNSF, Milepost 181.14, DOT No. 079227P; construction of a connecting

road between Tompkins Township Road 50<sup>th</sup> Street and Tompkins Township Road 180<sup>th</sup> Avenue to be located parallel to and south of BNSF's tracks, authorize installation of a new at grade crossing with concrete crossing surface and automatic flashing light signals and gates with constant warning time circuitry; and, dividing the cost among the parties in accordance with law and requiring that a substantial portion of the cost be borne by the Grade Crossing Protection Fund of the Motor Fuel Tax Law.

THE BURLINGTON NORTHERN AND SANTA  
FE RAILWAY COMPANY

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Cheryl Townlian

KENNETH J. WYSOGLAD & ASSOCIATES

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Michael L. Sazdanoff

Michael L. Sazdanoff  
Kenneth J. Wysoglad & Associates  
Attorneys for Petitioner  
The Burlington Northern and Santa Fe Railway Company  
118 S. Clinton Street, Suite 700  
Chicago, Illinois 60661  
(312) 441-0333



STATE OF ILLINOIS     )  
                                  )  
COUNTY OF COOK     )     SS

**VERIFICATION**

Cheryl Townlian, being duly sworn on oath, deposes and states that she is Manager, Public Projects for The Burlington Northern and Santa Fe Railway Company, petitioner herein; that she is duly authorized by said railroad company to sign, verify and file the foregoing petition and that the matters set forth in said petition are true and correct to the best of her knowledge, information and belief.

\_\_\_\_\_  
Cheryl Townlian

Subscribed and sworn to  
before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public

## PROOF OF SERVICE

Michael L. Sazdanoff, being first duly sworn on oath, deposes and says that on the 5 day of MAY, 2003, he caused to be served, a true and correct copy of **PETITIONER'S MOTION FOR LEAVE TO FILE ITS AMENDED PETITION** upon:

Mr. Henry Humphries  
Railroad Staff  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, Illinois 62706

Mr. James L. Easterly  
Illinois Department of Transportation  
Division of Highways  
2300 S. Dirksen Pkwy, Suite 300  
Springfield, Illinois 62701

Mr. James I. Oaks  
Highway Commissioner Hale Township  
2240 Mam Trail  
Monmouth, Illinois 61462

Mr. James Justus  
County Engineer Warren County  
833 S. Eighth Street  
Monmouth, Illinois 61462

Mr. James Dutton  
Highway Commissioner Tompkins Township  
P.O. Box 397  
Kirkwood, Illinois 61447

by depositing same in the U.S. Mail depository located at Adams and Clinton Streets, Chicago, Illinois in an envelope(s) with first-class postage, prepaid.

